

HOUSE  
STUDY

GROUP bill analysis

4/3/85

HE 289  
Connelly et al.  
(CSHB 289 by Patrick)

SUBJECT: Encirclement of unincorporated areas by annexation

COMMITTEE: Urban Affairs: committee substitute recommended

VOTE: 9 ayes--Pierce, Rangel, Berlanga, Connelly, Edwards,  
O. Garcia, A. Luna, Patrick, Valigura

0 nays

4 absent--Denton, Criss, Hilbert, Polumbo

WITNESSES: For--Frank Bondurant, Cypress Creek United Civic  
Association

Against--Ted Willis, Texas Municipal League

DIGEST: If a proposed annexation would extend a city's  
boundaries to encircle an area but would not include  
that area within the city, CSHB 289 would require the  
annexing city's governing body to make findings that  
the encirclement was in the public interest before  
completing the annexation. The bill would not affect  
annexation proceedings that were started before its  
effective date. (The bill contains an emergency clause  
under which it would take effect immediately upon  
passage if approved by a sufficient margin in each  
house.)

SUPPORTERS SAY: CSHB 289 is a balanced compromise that will remedy  
a flaw in the current law on municipal annexation.  
Currently, cities may encircle unincorporated areas  
without restriction. They can exclude an area for any  
reason--for example, because it includes a municipal  
utility district (MUD) whose debt the city does not  
want to assume, or because it would require more  
services than its tax base could pay for. When  
surrounding areas are annexed by the city, the areas  
encircled are left to fend for themselves and can no  
longer afford basic services, such as water and utility  
services or fire and police protection, because the  
city has annexed more affluent areas nearby that used  
to share the cost of these services.

CSHB 289 is more flexible than previous bills that  
would have prohibited so-called "doughnut" annexations  
outright or else linked them to other issues. This  
bill would allow doughnut annexations that served the  
public interest--for example, in cities that enforce

SUPPORTERS  
SAY:  
(continued)

their zoning ordinances by annexing land selectively. At the same time the bill would minimize harmful exclusions by requiring cities to find that the public interest was served by each encirclement.

CSHB 289 would give adequate recourse to aggrieved citizens. Currently they can do nothing if a city encircles them. Under CSHB 289, disputed findings could be appealed in district court under well-established procedures.

OPPONENTS  
SAY:

This bill would infringe cities' rights to annex land as they choose. The major reason a city would not want to annex such an area is high debt incurred by a MUD or other district that had been set up by the developer to serve the area in lieu of paying for city utility services. When the developer walks away, the property owners are left holding the bag, and a city that annexes their area inherits the debt. The public interest would not be served by giving these people a statutory basis for pressuring the city to bail them out. They knew that police, fire, and ambulance services outside city limits were poor, but they freely chose to take the risks in exchange for the benefits of lower costs of houses and utilities in unincorporated areas.

OTHER  
OPPONENTS  
SAY:

This bill does not go far enough to protect people who live surrounded by land that is within a city's limits. Cities could "find" that the public interest allowed them complete freedom to encircle unincorporated areas, and anyone who disputed their decision would face a lengthy, expensive, and probably futile court fight. The only fair solution is to prohibit all doughnut annexations as discriminatory.

NOTES:

HB 289 as introduced would have prohibited cities from encircling unincorporated land.

During the 68th Legislature, on May 23, 1983, the House passed HB 1383 by Connelly, which would have prohibited doughnut annexations and set up certain disannexation procedures. The bill died in the Senate Committee on Intergovernmental Relations.